

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DALE WAYNE LINGER,

Plaintiff,

v.

CIVIL NO. 2:22-CV-5
(KLEEH)

SHEETZ,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 5] AND
DISMISSING ACTION WITHOUT PREJUDICE

On May 1, 2022, the pro se Plaintiff, Dale Wayne Linger ("Plaintiff"), filed a Complaint against the Defendant, Sheetz ("Defendant"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On May 20, 2022, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the action without prejudice.

The R&R informed the parties that they had fourteen (14) days from the filing of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit

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Court of Appeals.” Plaintiff accepted service of the R&R on May 23, 2022. To date, no objections have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 5]. This action is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court’s active docket.

It is so **ORDERED**.

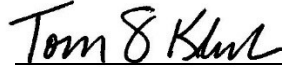
The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested, at the last known address as shown on the docket.

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DATED: June 14, 2022

Handwritten signature of Thomas S. Klee in black ink.

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA